

HOUSE BILL NO. 118

INTRODUCED BY M. BERTOGLIO

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A WARRANT FOR DISTRAINT CREATES A LIEN AGAINST PERSONAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF MONTANA OWNED BY A DELINQUENT TAXPAYER; AMENDING SECTION 15-1-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-701, MCA, is amended to read:

"15-1-701. Warrant for distraint. (1) A warrant for distraint is an order, under the official seal of the department or of the department of transportation, directed to a sheriff of a county of Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy ~~upon~~on and sell the real and personal property of a delinquent taxpayer.

(2)— ~~(a) Upon~~On filing the warrant as provided in 15-1-704, there is a lien:

(i) _____ against all real and personal property of the delinquent taxpayer located in the county where the warrant is filed; and

(ii) _____ against all monies of the delinquent taxpayer in the state, including:

(A) _____ monies due and owing to the delinquent taxpayer;

(B) _____ all funds in demand, savings, or time deposits held in banking institutions in which a delinquent taxpayer has ownership interest;

(C) _____ wages and compensation owed to a delinquent taxpayer; and

(D) _____ stock, equity interests, and investment accounts in which the delinquent taxpayer has ownership interest.

(b) The lien provided for in subsection (2)(a)(ii) is imposed in any county of the state, regardless of the location of the delinquent taxpayer.

(3) The resulting lien in subsection (2) is treated in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and the department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is enforced, except that the department may enforce the judgment lien at any time within 10 years of its creation or effective date, whichever is later.

(3)(4) — _____ A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any, and accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint.

9 ~~(4)~~(5) The accelerated priority date provided for in subsection ~~(3)~~(4) is not valid against purchasers,
10 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts
11 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."

13 NEW SECTION. Section 2. **Effective date.** [This act] is effective on passage and approval.

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